

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT
EVAN DAVIS,) CASE NO.: 2022-CP-40-
Plaintiff,)
v.)
WAFFLE HOUSE, INC. AND JANE DOE,)
Defendant.)

)

SUMMONS
(Jury Trial Requested)

TO: THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer thereto on the subscribers at their office located at 321 East Bay Street, Post Office Box 22437, Charleston, South Carolina 29413, within thirty (30) days of the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will move for entry of Default Judgment and apply to the Court for the relief sought therein.

PIERCE, SLOAN, KENNEDY & EARLY, LLC
321 East Bay Street
Post Office Box 22437
Charleston, SC 29401
(843) 722-7733

s/ Carl E. Pierce II
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and

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September 19, 2022
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	CASE NO.: 2022-CP-40-
)	
EVAN DAVIS,)	
)	
Plaintiff,)	COMPLAINT
)	(Jury Trial Requested)
v.)	
)	
WAFFLE HOUSE, INC. AND JANE DOE,)	
)	
Defendant.)	
)	

Evan Davis ("Plaintiff"), by and through the undersigned attorneys, complaining of Waffle House, Inc. ("Waffle House") and Jane Doe, would allege and show unto this Court the following:

JURISDICTION AND VENUE

1. At the time of the incident, Plaintiff was a citizen and resident of Richland County, South Carolina.
2. At the time of the incident, Defendant Jane Doe was, upon information and belief, a citizen and resident of Richland County, South Carolina.
3. At the time of the incident, Defendant Jane Doe was, upon information and belief, an employee of Waffle House.
4. Upon information and belief, Defendant Waffle House, Inc. is a foreign corporation existing under the laws of the State of Georgia with its principal place of business located at 5986 Financial Drive, Norcross, Georgia 30071.
5. Upon information and belief, Defendant Waffle House, Inc. owns property, manages employees, and transacts business in South Carolina, including particularly in Richland County, South Carolina.
6. Upon information and belief, Defendant Waffle House, Inc. herein participates in, and profits from, the ownership, operation, management, supervision, control, food supply, food delivery,

and food sales associated with the subject Waffle House located at 916 Harden Street in the City of Columbia located within Richland County, State of South Carolina.

7. An incident which caused serious injuries and significant damages to Plaintiff occurred on or about September 29, 2020, at the Waffle House located at 916 Harden Street in the City of Columbia located within Richland County, State of South Carolina.

8. This Court has personal jurisdiction over the parties to this action and subject matter jurisdiction over the claims asserted in this Complaint.

9. Venue is proper in Richland County, South Carolina.

BACKGROUND FACTS

10. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

11. On or about September 29, 2020, at approximately 4:00 a.m., Plaintiff was inside the Waffle House ordering food at a booth as a customer of the establishment.

12. Jane Doe was Plaintiff's server and took Plaintiff's order.

13. While serving Plaintiff, Jane Doe overheard comments made by Plaintiff which Jane Doe did not agree with and caused her to become visibly angry.

14. As a result, Jane Doe physically forced Plaintiff out of the Waffle House by pushing and shoving him into the parking lot and directly into other Waffle House patrons and other persons in the vicinity of the restaurant who were exhibiting aggressive and physical behavior toward Plaintiff.

15. Because Plaintiff was directed out of the Waffle House by Jane Doe and into the presence of persons exhibiting aggressive behavior, Plaintiff was violently attacked on the Waffle House premises by direct punches and kicks to his head, chest, and body.

16. Neither Waffle House, nor Jane Doe offered any assistance as Plaintiff lay beaten and bloody in the Waffle House parking lot.

17. No one at Waffle House, Jane Doe or otherwise, called EMS or the police department, at any time.

18. Plaintiff, disoriented and beaten, stumbled his way to Prisma Health Baptist Hospital.

19. Plaintiff was examined by emergency room personnel. Plaintiff complained of blurred vision and headaches. Doctors determined that Plaintiff had nasal bone fractures and had been assaulted.

20. As a result of this aforementioned incident, Plaintiff suffered serious bodily injury and significant damages. Plaintiff has suffered physical harm and injury from the incident all of which has and will in the future cause him to undergo physical pain and suffering, has and will in the future cause him to undergo medical treatment and services, and has and will in the future cause him to suffer trauma, anxiety, annoyance, impairment, and inconvenience – all to his significant damage and detriment.

FOR A FIRST CAUSE OF ACTION
(Premises Liability: Negligence as to Waffle House)

21. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

22. At all times relevant hereto, Plaintiff was an invitee of Waffle House.

23. The Defendant was aware that a great many violent and criminal acts had taken place on the premises of the Waffle House in question herein whereby patrons of said Waffle House had been injured and police had to be called to restore order.

24. Upon information and belief, Waffle House holds itself out as and promotes itself as a quality and safe restaurant while promoting and serving to the public.

25. Upon information and belief, Waffle House exercises control over the safety policies and procedures of the subject Waffle House.

26. The Defendant was also aware that the Defendant's premises was located in a raucous bar district known for crime, fights, and drunken behavior.

27. The incident, injuries, and damages described in this Complaint were the direct, foreseeable, and proximate result of the negligent and careless, and willful, wanton, reckless, and grossly negligent acts of Waffle House in the following particulars:

- a. In failing to discover risks and to take safety precautions to warn of or eliminate unreasonable risks to Plaintiff;
- b. In failing to impose reasonable security measures;
- c. In failing exercise ordinary care to keep its premises in a reasonably safe condition;
- d. In failing to anticipate that such violent and criminal acts would take place in the future at the Waffle House;
- e. In failing to anticipate that the plaintiff or another patron would be injured in a violent incident at the Waffle House;
- f. In failing to take reasonable action to protect the Plaintiff against a foreseeable risk of physical harm while a patron at the Waffle House;
- g. In deviating from its own internal policies and procedures to take reasonable action to protect the Plaintiff against a foreseeable risk of physical harm;
- h. In failing to adequately hire, train, and supervise their employees to properly handle "rowdy" customers at its restaurant;
- i. In failing to adopt and enforce adequate safety policies and procedures;
- j. In failing to exercise that degree of ordinary care and caution that a reasonably prudent restaurant owner or operator would provide to its customers under the same or similar circumstances; and,
- k. In any other such manner that Plaintiff may become aware of through discovery and/or at trial.

All of which acts and omissions, or both, were the actual, direct and proximate cause of the damages and injuries claimed herein.

28. As a direct and proximate result of Defendant's wanton, reckless, grossly negligent, and negligent acts as set out above, Plaintiff has suffered injuries, which have caused, and in the future will cause pain, suffering, emotional distress, loss of enjoyment of life, and other damages.

29. Due to the willful, wanton, reckless, grossly negligent, and negligent acts of Defendant as set out above, Plaintiff is entitled to recover actual and punitive damages from Defendant as determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Intentional Infliction of Emotional Distress as to Jane Doe)

30. Plaintiff re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

31. Jane Doe intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from her conduct.

32. Jane Doe's conduct was so extreme and outrageous so as to exceed "all possible bounds of decency" and must be regarded as atrocious, and utterly intolerable in a civilized community.

33. The actions of Jane Doe caused the Plaintiff emotional distress and the emotional distress suffered by the Plaintiff was severe such that no reasonable person could be expected to endure it.

34. As a result, Plaintiff is entitled to actual and punitive damages.

35. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays for the following:

- i. Judgment against Defendant for actual and punitive damages in an amount to be determined by the jury;

- ii. For the costs of this action; and
- iii. For such other and further relief as this court deems just and proper.

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s/ Carl E. Pierce II
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September 19, 2022
Charleston, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT
EVAN DAVIS,) CASE NO.: 2022-CP-40-04857
Plaintiff,)
v.)
WAFFLE HOUSE, INC. AND JANE DOE,)
Defendants.)

AFFIDAVIT OF SERVICE

The below individual hereby states that he is an individual employed with the law firm of Pierce, Sloan, Kennedy & Early, LLC located at 321 East Bay Street, The Blake House, Charleston, South Carolina.

He further states that the Defendant, Waffle House, Inc. was properly served by Certified Mail, Restricted Delivery on September 21, 2022 with the Summons and Complaint filed in this matter and Plaintiff's First Set of Interrogatories and Requests for Production as evidenced by the attached USPS Form 3811. Said service was performed in accordance with the South Carolina Rules of Civil Procedure.

PIERCE SLOAN LLC
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P.O. Box 22437
Charleston, SC 29413
(843) 722-7733

/s/ Benjamin C. Smoot II
Benjamin C. Smoot, II (S.C. Bar no. 101372)
Attorneys for the Plaintiff

October 3, 2022
Charleston, SC

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature X </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 9/21/22</p>	
<p>1. Article Addressed to:</p> <p>Corporation Service Company As Registered Agent for Waffle House, Inc. 508 Meeting Street West Columbia, SC 29169</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7022 0410 0002 0961 7935</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail® <input checked="" type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Mail <input type="checkbox"/> Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p> <p>Domestic Return Receipt</p>			